

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

STERLING SUFFOLK RACECOURSE, LLC,

Plaintiff,

v.

WYNN RESORTS, LTD; WYNN MA, LLC;
STEPHEN WYNN; KIMMARIE SINATRA;
MATTHEW MADDOX; and FBT EVERETT
REALTY, LLC,

Defendants.

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Civil Action No.
1:18-cv-11963-DLC

**ASSENTED-TO MOTION TO EXTEND BRIEFING SCHEDULE FOR MOTION TO
DISMISS AND “ANTI-SLAPP” SPECIAL MOTION**

Pursuant to Fed. R. Civ. P. 6(b)(1), Plaintiff Sterling Suffolk Racecourse, LLC (“SSR” or “Plaintiff”) hereby moves for an extension of the briefing schedule to respond to two motions, the Special Motion to Dismiss (Doc. Nos. 14-15) and the Motion to Dismiss (Doc. Nos. 16-17), filed by defendants Wynn Resorts, Ltd., Wynn MA, LLC, and Matthew Maddox (collectively, the “Moving Defendants”) until January 31, 2019, with the Moving Defendants’ consent, in order that Plaintiff may file a single consolidated opposition brief addressing both the Moving Defendants’ motions and the motions to dismiss that it is anticipated are likely to be filed by other defendants, which are not due until early January.

In support of this motion SSR states as follows:

1. This is a civil RICO case against multiple defendants with multiple additional state-law causes of action alleged. There has been no previous scheduling conference or order in this case. The two Moving Defendants who are entities had been served via their registered

agents, with their initial time to respond to SSR's complaint (the "Complaint") falling on November 23, 2018. Mr. Maddox, the individual Moving Defendant, had not been served although his counsel had indicated his willingness to waive service pursuant to Fed. R. Civ. P. 4(d)(3), which, given the timing of those discussions, would have given Mr. Maddox an early January date to respond to the Complaint.

2. The Moving Defendants, including Mr. Maddox, chose, as was their right, to file their motions on November 20, 2018, before they were due and without requesting any extensions. Pursuant to Local Rule 7.1(b)(2), the default deadline for SSR to file any opposition to the Moving Defendants' motions is December 4, 2018.

3. The remaining three defendants in the case are each represented by separate counsel, and at present have three separate deadlines to respond to the Complaint, namely December 21, 2018 (FBT Everett LLC), January 8, 2019 (Kimmarie Sinatra), and January 10, 2019 (Stephen Wynn – representing a slight extension from his prior deadline that has been recently agreed upon and will be memorialized in a stipulation to be filed shortly).

4. SSR anticipates that most if not all of the remaining defendants will file their own motions rather than answer the Complaint, which will likely have significant but not complete overlap with the arguments raised with the motions already filed by the Moving Defendants. SSR believes, and the Moving Defendants agree, that it will be more efficient for the Court's decision-making process for SSR to file a single consolidated opposition brief responding to all arguments made by all defendants rather than for SSR to file multiple opposition briefs, with substantially overlapping substance, in response to different motions on different and uncoordinated briefing schedules.

5. SSR is confident that the total number of pages that will be required for this consolidated opposition brief would be substantially less (possibly as much as 50% less) than would be required if it were to file multiple opposition briefs on multiple deadlines responding on different dates to multiple moving briefs filed by four separate law firms on the defense side. SSR anticipates making a further motion proposing a specific page limitation for the consolidated opposition brief, hopefully with the assent of all defendants, promptly after receiving and reviewing all defendants' moving papers in early January.

6. SSR believes at present that a deadline of January 31, 2019 for the consolidated opposition brief, i.e. 21 days after the final deadline for any defendant to respond to the Complaint, will be sufficient.

WHEREFORE, for the foregoing reasons, SSR respectfully requests that the Court grant this motion and extend the briefing schedule to allow SSR to respond to both the Moving Defendants' Special Motion to Dismiss and the Moving Defendants' Motion to Dismiss until January 31, 2019.

DATED: November 28, 2018

Respectfully submitted,

/s/ Joseph R. Donohue
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Counsel for Plaintiff Sterling Suffolk Racecourse, LLC

RULE 7.1(a)(2) CERTIFICATE

I hereby certify that on November 28, 2018, counsel for SSR conferred with counsel for the Moving Defendants and the Moving Defendants ASSENT to the relief sought in this Motion.

s/ Joseph R. Donohue

CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically through the Court's CM/ECF system on November 28, 2018, and will be served electronically on all counsel of record.

/s/ Joseph R. Donohue